GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

Health Medical and Family Welfare Department - Andhra Pradesh Human Immunodeficiency Virus and Acquired Immune Deficiency Syndrome (Ombudsman and Legal Proceedings) Rules, 2022 - Notification - Orders - Issued.

MEDICAL, HEALTH & FAMILY WELFARE (H1) DEPARTMENT

G.O.Ms.No.311 **Dated: 05/12/2022**

Read:-

The Human Immunodeficiency Virus And Acquired Immune Deficiency Syndrome (Prevention And Control) Act, 2017 (16 of 2017).

--OO--

ORDER:-

NOTIFICATION

In exercise of powers conferred by Section 49 read with Sections 23, 24 and 25 of the Human Immunodeficiency Virus And Acquired Immune Deficiency Syndrome (Prevention And Control) Act, 2017 (16 of 2017), to provide for the appointment, terms and conditions, qualifications and manner of inquiry by Ombudsman, the Government of Andhra Pradesh hereby makes the following rules, namely:-

Chapter - I

Preliminary

Short title, extent and commencement

1. These Rules shall be called the Andhra Pradesh Human Immunodeficiency Virus and Acquired Immune Deficiency Syndrome (Ombudsman and Legal Proceedings) Rules, 2022.
2. They shall extend to the whole of the State of Andhra Pradesh.
3. These Rules shall come into force on date of their publication in the Official Gazette.

2. Definitions

In these rules unless the context otherwise requires,

(a) "Act" means the Human Immunodeficiency Virus and Acquired Immune Deficiency Syndrome (Prevention and Control) Act, 2017 (No. 16 of 2017);
(b) "Appropriate authority" means, the State AIDS Control Society.
(c) "High burden districts" means districts notified as such by the appropriate authority under the Central Government of India from time to time;
(d) "Ombudsman" means an Officer appointed or designated by the State Government, as the case may be, under section 23 of the Act;
(e) Words and expressions used and not defined in these rules but defined in the Act, shall have the meanings assigned to them in the Act.

Chapter - II

3. Appointment & Jurisdiction of Ombudsman -

The Government of Andhra Pradesh shall designate the District Medical & Health Officer of the respective districts as the Ombudsman for the purpose of this Act. .

Provided that the State Government shall provide him assistance from the District and State Legal Services Authority on legal issues that may arise in the course of his work, if so requested.

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Provided further that the State Government shall provide capacity building within thirty days from the date of designation of Ombudsmans.

4. Manner of inquiring into complaints by Ombudsman

(a) The Ombudsman shall act in an objective and independent manner when inquiring into complaints made under the Act.
(b) While inquiring into complaints under the Act, the Ombudsman shall not be bound by any rules of evidence and may follow such procedure as he considers just and proper.
(c) No cross-examination shall be permitted in inquiries before the Ombudsman.
(d) The Ombudsman may, in the interests of justice, take the assistance of expert, including protected persons and persons vulnerable to HIV, and persons working in the fields of HIV and AIDS, public health or health delivery system.
(e) The Ombudsman shall have the power to pass interim orders in cases of medical emergency without hearing the parties.
(f) The Ombudsman shall have the power to pass orders, including to, withdrawal and rectification of the violations, counselling, social service etc.
(g) The Ombudsman shall inform the complaint of the action taken.
(h) The Ombudsman shall inform the parties to the complaints of their right to seek judicial review from the Ombudsman's order.

5. Manner of maintaining records by Ombudsman –

(1) The Ombudsman shall -

(a) immediately on receipt of a complaint, record it by assigning a sequential unique complaint number in a register maintained solely for that purpose in physical or computerized form;
(b) on receipt of the complaint, acknowledge it including by sending the unique complaint number by SMS or e-mail to the complainant where available;
(c) record the time of the complaint and the action taken on the complaint in the register; and
(d) maintain the register of complaints in a manner that ensures confidentiality of data as specified in the proviso to rule 6(1).

(2) The Ombudsman shall comply with data protection measures in accordance with section 11 of the Act.

6. Manner of making complaints to Ombudsman –

(1) Any person may make a complaint to the Ombudsman within whose jurisdiction the alleged violation took place, within three months from the date that the person making the complaint became aware of the alleged violation of the Act.

Provided that the Ombudsman may, for reasons to be recorded in writing, extend the time limit to make the complaint by a further period of three months, if he is satisfied that circumstances prevented the complainant from making the complaint within the stipulated period.

(2) All complaints shall be made to the Ombudsman in writing in accordance with the form set out in the Appendix to the Rules.

Provided that where a complaint cannot be made in writing the Ombudsman shall render all reasonable assistance to the complainant to reduce the complaint in writing.

(3) In cases of medical emergency, the Ombudsman or his assistant may visit the complainant at the location of the alleged violation or any other convenient place to enable written documentation of the complaint.

Contd..P3

(4) The Ombudsman may receive complaints made in person, via post, telephonically, or through electronic form through the Ombudsman's website.

Provided that the State Government shall within seven days of the appointment of the Ombudsman establish a website of the Ombudsman.

7. State government to disseminate information on Ombudsman –

(1) Within thirty days of the appointment of the Ombudsman, the appropriate authority under the State Government shall disseminate information about the office of the Ombudsman, including the Ombudsman's jurisdiction, role, functioning and procedures, and the manner in which complaints can be made to the Ombudsman.

(2) Such dissemination shall be undertaken to advance the understanding, in particular, of protected persons, healthcare workers, legal aid service authorities and civil authorities.

8. Manner of recording pseudonym and providing suppression of identity in legal proceedings –

(1) In any legal proceeding where a court, pursuant to section 34(1)(a) of the Act directs, on an application made by a protected person or any other person, that in the interests of justice the proceeding or any part thereof be conducted by suppressing the identity of such protected person, the Registrar of the court shall direct all parties involved to:-

(i) File one copy of the documents bearing the full name, identity and identifying details of the parties concerned before the court, which shall be kept in a sealed cover and in safe custody with the Registrar; and

(ii) Serve one copy of documents bearing the full name, identity and identifying details of the parties concerned upon other parties in the proceeding with a requirement to ensure that the full name and identity of the parties concerned are kept confidential.

(2) The Registrar shall provide pseudonyms to protected persons involved in the legal proceedings in the documents filed before the court in such manner that the identity and identifying details of the protected person involved in the legal proceeding are kept confidential.

(3) The Registrar shall place the sealed covered documents before the court on the first date the legal proceeding is listed for hearing before the court, if so required by the court.

(4) The identities of the protected person involved in the legal proceeding and their identifying details shall be displayed in pseudonym in all documentation generated by the court in relation to the legal proceeding, including listing of the case on the court Board, interim orders and final judgments.

(5) The identity and identifying details of the protected person involved in the legal proceeding shall not be revealed by any person or their representatives including assistants and staff.

Exception: Where in the interest of justice the name and identity of the protected person needs to be revealed to a third party, it shall only be allowed by an order of the court.

Contd..P4

(6) Printing or publishing any matter in relation to the aforementioned legal proceedings in electronic or any other form, shall be lawful only if the same is done by ensuring the suppression of identities of the parties in the legal proceeding.

(7) In any legal proceeding before it under the Act, the court shall comply with data protection measures in accordance with section 11 of the Act.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

M.T.KRISHNA BABU
PRINCIPAL SECRETARY TO GOVERNMENT

To
The Commissioner of Printing, Stationery & Stores Purchase (PW)
A.P., Vijayawada (with a request to publish the Notification in A.P. Gazette and furnish 50 copies to Government)
The Director, Health & Family Welfare, AP., Mangalagiri.
The Director of Public Health & Family Welfare, AP, Vijayawada.
The Commissioner, AP Vaidya Vidhana Parishad, Vijayawada.
The Commissioner of AYUSH, AP, Vijayawada.
The Director of Medical Education, AP, Vijayawada.
The Project Director, APSACS, Vijayawada.

Copy to:

The P.S. to Special Chief Secretary to C.M.
The OSD to Minister (H,FW&ME)
The P.S. to Principal Secretary to Government,
Health, Medical. & Family Welfare Department.
The P.S. to Principal Secretary to Government.,
Health, Medical. & Family Welfare Department.
The Law Department
Sf/Scs.

//FORWARDED :: BY ORDER//

SECTION OFFICER

APPENDIX

Form for making Complaints to Ombudsman
[See rule 6 (2)]

1.Date of Incident:

2. Place of Incident:

3. Description of incident:

4.Person/ Institution responsible for the incident
Signature/ Thumb Impression of Complainant*

Name: Date:

Mobile No./email/Fax/Address:

For Official Use only:

Unique Complaint Number:.....

*Where the complaint is received telephonically and reduced to writing by the Ombudsman, the Ombudsman shall sign the Form.

M.T.KRISHNA BABU
PRINCIPAL SECRETARY TO GOVERNMENT

Registered No. HSE-49/2016

RIGHT TO INFORMATION

ఆంధ్రప్రదేశ్ రాజపత్రము

THE ANDHRA PRADESH GAZETTE

PUBLISHED BY AUTHORITY

RULES SUPPLEMENT TO PART I EXTRAORDINARY

No.1056 AMARAVATI, TUESDAY, DECEMBER 6, 2022 G.3013

NOTIFICATIONS BY GOVERNMENT

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MEDICAL, HEALTH & FAMILY WELFARE DEPARTMENT,

(H1)

ANDHRA PRADESH HUMAN IMMUNODEFICIENCY VIRUS AND ACQUIRED IMMUNE DEFICIENCY SYNDROME (OMBUDSMAN AND LEGAL PROCEEDINGS) RULES, 2022.

[G.O.Ms.No.311, Medical, Health & Family Welfare (H1), 5th December, 2022.]

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M.T.KRISHNA BABU,
Principal Secretary to Government.

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For Official Use only:

Unique Complaint Number:.....

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M.T.KRISHNA BABU,
Principal Secretary to Government.

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